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REMARKS/DISCUSSION OF ISSUES

Specification. The specification was amended herein to correct typographical/grammatical/format errors. No new matter was added by the amendments of the specification herein.

Claims 1-13. In the Non-Final Office Action, Examiner Brown objected to and rejected pending claims 1-13 on various grounds. The Applicant responds to each objection and rejection as subsequently recited herein, and respectfully requests reconsideration and further examination of the present application under 37 CFR § 1.112:

A. Examiner Martin objected to pending claim 7.

The Applicant respectfully asserts that value of subscript X is neither restricted nor limited in accordance with the teachings of the present invention, and therefore should not be restrictively nor limitedly recited in claim 7. Withdrawal of the objection of claim 7 is therefore respectfully requested.

B. Examiner Martin rejected pending claims 1-6 under 35 U.S.C. §102(b) as being anticipated by or, in the alternative, under 35 U.S.C. §103(a) as being unpatentable over a publication entitled "Binary Alloy Phase Diagrams" to *Massalski* et al.

The Applicant has thoroughly considered Examiner Martin's remarks concerning the patentability of claims 1-6 over *Massalski*. The Applicant has also thoroughly read *Massalski*. To warrant a §102(b) rejection, *Massalski* must show each and every limitation of claims 1-6 in as complete detail as is contained in claims 1-6. See, MPEP §2131. To warrant a §103(a) rejection of claims 1-6, all the claim limitations recited in independent claims 1-6 must be taught or suggested by the *Massalski*. See, MPEP §2143. The Applicant respectfully asserts that *Massalski* fails

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to disclose, teach or suggest "a magnesium-containing intermetallic compound capable of forming a hydride with the hydrogen at room temperature" as recited in amended independent claim 1. Specifically, *Massalski* teaches an incomplete phase diagram for a Mg-Sc alloy exclusively within a temperature range of 200°C to 1600°C. See, *Massalski* at pages 1542 and 1543.

Withdrawal of the rejection of independent claim 1 under §102(b) as being anticipated by *Massalski* or in the alternative, the rejection of independent claim 1 under §103(a) as being unpatentable over *Massalski* are therefore respectfully requested.

Claims 2-6 depend from amended independent claim 1. Therefore, dependent claims 2-6 include all of the elements and limitations of amended independent claim 1. It is therefore respectfully submitted by the Applicant that dependent claims 2-6 are allowable over *Massalski* for at least the same reason as set forth with respect to amended independent claim 1 being allowable over *Massalski*. Withdrawal of the rejection of dependent claims 2-6 under §102(b) as being anticipated by *Massalski* or in the alternative, the rejection of dependent claims 2-6 under §103(a) as being unpatentable over *Massalski* are therefore respectfully requested.

- C. Examiner Martin rejected pending claims 1 and 8-10 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,099,811 to *Stetson et al.*

The Applicant has thoroughly considered Examiner Martin's remarks concerning the patentability of claims 1 and 8-10 over *Stetson*. The Applicant has also thoroughly read *Stetson*. To warrant a §102(b) rejection, *Stetson* must show each and every limitation of claims 1 and 8-10 in as complete detail as is contained in claims 1 and 8-10. See, MPEP §2131. The Applicant respectfully traverses this anticipation rejection of claims 1 and 8-10, because *Stetson* fails to disclose, teach or suggest "wherein the intermetallic compound includes an alloy of magnesium and a trivalent metal selected from a group consisting of Sc, Y, and the actinide series of rare earth elements" as recited in amended independent claim 1. Withdrawal of the

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rejection of independent claim 1 under §102(b) as being anticipated by *Stetson* is therefore respectfully requested.

Claims 8-10 depend from amended independent claim 1. Therefore, dependent claims 8-10 include all of the elements and limitations of amended independent claim 1. It is therefore respectfully submitted by the Applicant that dependent claims 8-10 are allowable over *Stetson* for at least the same reason as set forth with respect to amended independent claim 1 being allowable over *Stetson*. Withdrawal of the rejection of dependent claims 8-10 under §102(b) as being anticipated by *Stetson* is therefore respectfully requested.

- D. Examiner Martin rejected pending claims 1 and 11-13 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,259,110 to *Pezat et al.*

The Applicant has thoroughly considered Examiner Martin's remarks concerning the patentability of claims 1 and 11-13 over *Pezat*. The Applicant has also thoroughly read *Pezat*. To warrant a §102(b) rejection, *Pezat* must show each and every limitation of claims 1 and 11-13 in as complete detail as is contained in claims 1 and 11-13. See, MPEP §2131. The Applicant respectfully traverses this anticipation rejection of claims 1 and 11-13, because *Pezat* fails to disclose, teach or suggest "wherein the intermetallic compound includes an alloy of magnesium and a trivalent metal selected from a group consisting of Sc, Y, and the actinide series of rare earth elements" as recited in amended independent claims 1 and 11-13. Withdrawal of the rejection of independent claims 1 and 11-13 under §102(b) as being anticipated by *Stetson* is therefore respectfully requested.

New Claims 14-16. New claims 14-16 depend from amended independent claims 11-13, respectively. Therefore, dependent claims 14-16 include all of the elements and limitations of amended independent 11-13, respectively. It is therefore respectfully submitted by the Applicant that dependent claims 14-16 are allowable over the art of record for at least the same reason as set forth with respect to amended

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independent 11-13, respectively, being allowable over the art of record. An allowance of new claims 14-16 is therefore respectfully requested.

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SUMMARY

The Applicant respectfully submits that pending claims 1-13 as amended herein, and new claims 14-16 as added herein fully satisfy the requirements of 35 U.S.C. §§ 102, 103 and 112. In view of the foregoing, favorable consideration and early passage to issue of the present application is respectfully requested. If any points remain in issue that may best be resolved through a personal or telephonic interview, Examiner Martin is respectfully requested to contact the undersigned at the telephone number listed below.

Dated: January 23, 2004

Respectfully submitted,
Martin Ouwerkerk

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